

Notice of Rulemaking Hearing
Department of Commerce and Insurance
Board for Licensing Contractors

There will be a hearing before the Board for Licensing Contractors to consider the promulgation of rules pursuant to Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. § 62-6-138 [effective January 1, 2007]. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in the Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway in the Davy Crockett Towner, in Nashville, Tennessee at 9:00 a.m. (Central Time) on the 24th day of January, 2007.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact Carolyn Lazenby, Executive Director of the Board for Licensing Contractors at 500 James Robertson Parkway, Davy Crockett Tower, 1st Floor, Nashville, Tennessee 37243, telephone (615) 741-8307.

Substance of Proposed Rules

New Rules

Chapter 0680-5
Pre-Licensing Courses

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0680-5-.01 Definitions.

- (1) "Board" means the board for licensing contractors created by T.C.A. § 62-6-104.
- (2) "Pre-licensing course" means any course or workshop related to the practice of general or specialty contracting offered to assist an applicant for preparation of an examination required by the Board excluding courses offered by any public institution.
- (3) "Provider" means any person or entity who offers a pre-licensing course designed to assist an applicant for preparation of an examination required by the Board.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-104, 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.02 Application.

- (1) Any provider who offers any pre-licensing course shall submit an application on the form prescribed by the Board. The application shall be verified and accompanied by:
 - (a) a non-refundable fee in the amount provided in rule 0680-5-.03;
 - (b) a resume for each instructor of such course outlining the instructor's education and experience;
 - (c) a detailed description of the content of such course(s);
 - (d) the projected schedule for the teaching of such course(s);
 - (e) a surety bond to the State of Tennessee Board for Licensing Contractors as obligee in a minimum amount of fifty thousand dollars (\$50,000); and
 - (f) such other information as the Board may reasonably request.
- (2) The applicant shall demonstrate to the satisfaction of the Board that each course submitted for approval will:
 - (a) cover subjects which are reasonably related to the practice of construction and suitable to benefit and enrich the students enrolled;
 - (b) be conducted in a facility that contains adequate space, seating, and equipment; and
 - (c) provide adequate means to make up for all classes missed by a student;

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.03 Fees.

The application and renewal application fee is fifteen hundred dollars (\$1500) per provider.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.04 Course Approval Periods.

- (1) Each pre-licensing course approval shall remain effective for three (3) years from the date of approval. After three (3) years, the approval of the Board shall expire, unless the Board, after reviewing a renewal pre-licensing course application, approves the course for another such time period.
- (2) All pre-licensing course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in the non-approval of a course.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.05 Changes in Applications.

Any material change in any information furnished in connection with any application of a pre-licensing course (including, but not limited to, an address change of a provider, information concerning course content, instructors, and facilities) shall be submitted to and approved by the Board before taking effect.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.06 Withdrawal of Approval.

Approval of any course(s) may be withdrawn by the Board if:

- (1) (a) the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;
- (b) the information contained in the application is materially inaccurate or misleading;
- (c) the provider, an instructor, or any other school representative disseminates false or misleading information concerning any course;
- (d) the sponsor, an instructor, or any other school representative possesses, claims to possess, reveals, or distributes any questions utilized in examinations given by the Board;
- (e) the performance of the instructor is so deficient as to impair significantly the value of a course provided, however, that the instructor shall receive adequate notice of the discovered deficiency and opportunity to demonstrate satisfactory correction thereof; or
- (g) the provider, an instructor, or any other school representative disseminates false or misleading information regarding classifications, law, or entices an applicant to apply for unnecessary classes or purchase unnecessary course materials.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.07 Promotional Materials.

- (1) All materials used for advertising or promoting any pre-licensing course shall contain statements or claims that are factually supported.
- (2) No provider shall advertise or promote that fees charged for the pre-licensing courses will be waived if the student fails to pass any examination required by the Board;
- (3) No provider shall advertise or promote any guarantee that a student will successfully pass any examination required by the Board; and
- (4) No provider shall advertise that it has been specially endorsed by the Board.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.08 Relationship with Accountants and Insurance Brokers.

No provider offering a pre-licensing course shall advise students on financial accounting, insurance requirements or recommend, offer or encourage students to retain a particular accountant, accounting firm or insurance broker to complete any application requirements for a license under T.C.A. § 62-6-101 et. seq.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.09 Inspections.

By applying for the Board's approval of any pre-licensing course, the applicant agrees the Board or its authorized representative may perform periodic inspections and monitoring for the purposes of evaluating facilities, course content, instructor performance, or any other relevant aspect of the administration and conduct of such course.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.10 Citation Penalties.

- (1) The Executive Director of the Board may issue citations against providers offering pre-licensing courses for any violation of T.C. A. § 62-6-138 or any rule contained herein. Each citation shall contain an order to cease all violations of this chapter, and an assessment of a civil penalty in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
T.C.A. § 62-6-138	\$250 - \$1,000

- (2) In determining the amount of any penalty to be assessed pursuant to this rule, the Executive Director may consider such factors as the following:
 - (a) whether the amount imposed will be substantial economic deterrent to the violator;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of noncompliance;
 - (e) the interest of the public;
 - (f) willfulness of the violation;
 - (g) extent to which the licensee has sought to compensate any victim(s) of the violation.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

I certify that this is an accurate and complete representation of the intent and scope of the rulemaking proposed by the Board for Licensing Contractors.

Jennifer Meehan
Staff Attorney
Department of Commerce and Insurance

Subscribed and sworn to before me this _____ day of _____, 2006.

Notary Public

My Commission expires on the _____ day of _____, _____.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the _____ day of _____, 2006.

Riley C. Darnell
Secretary of State

By: _____